

Applicants : Shibo JIANG and Asim Kumar DEBNATH
U.S. Serial No.: 10/706,027
Filed : November 12, 2003
Page : 2

REMARKS

Claims 1-30 are pending in this application.

Applicants maintain that there is no issue of new matters.

Applicants : Shibo JIANG and Asim Kumar DEBNATH
U.S. Serial No.: 10/706,027
Filed : November 12, 2003
Page : 3

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APR 26 2006

Election/Restrictions Requirement

The Examiner to whom this application is assigned indicated that the following inventions or groups of inventions are not so linked as to form a single general inventive concept under PCT Rule 13.1. The Examiner stated that the Applicants are required, in reply to this action, to elect a single invention to which the claims must be restricted. Under 35 U.S.C. § 121 and 372, restriction to one of the following groups of inventions is required:

- I. Claims 1 and 2, drawn to compounds, classified in class ?, subclass ?.
- II. Claims 3 to 30, drawn to compounds of the formula I, pharmaceutical compositions thereof and method of inhibiting replication of human immunodeficiency virus in cells therewith, classified in classes 544, 546, 548 and 514, various subclass.

In response, Applicants respectfully traverse the above restriction.

Under MPEP, there are two criteria for a proper requirement for restriction between patentable distinct inventions: (A) the inventions must be independent (see MPEP § 802.01, § 806.04, § 808.01) or distinct as claimed (see MPEP § 806.05 - § 806.05(i)); and (B) there must be a serious burden on the Examiner if restriction is required (see MPEP § 803.02, § 806.04(a) - § 806.04(i), § 808.01(a), and § 808.02). If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes independent claims or distinct inventions.

Applicants : Shibo JIANG and Asim Kumar DEBNATH
U.S. Serial No.: 10/706,027
Filed : November 12, 2003
Page : 4

Applicants further submit that claims 1-30, Groups I-II, do not require restriction as they are connected by a single relationship, which are compounds capable of inhibiting replication of human immunodeficiency virus that connects the claims (MPEP § 802.01).

In addition, Applicants maintain that the Examiner would not be seriously burdened by searching and examining all of the pending claims in a single application. A search for compounds capable of inhibiting replication of human immunodeficiency virus (Group II) will reveal references to a compound of molecular weight from 200 to 1200 Daltons, and logP of -2.0 to +5.5, capable of interacting with the hydrophobic cavity and blocking the formulation of the fusion-active gp41 coiled core domain and the compound of molecular weight from 200 to 1200 Daltons, and logP of -2.0 to +5.5, capable of interacting with the hydrophobic cavity and blocking the formulation of the fusion-active gp41 coiled core domain which is negatively charged (Group I).

Given the single, searchable unifying relationship, the Examiner would not be seriously burdened by searching and examining the claims of these groups in a single application. (See MPEP § 803.02, § 806.04(a) - § 806.04(i), § 808.01(a), and § 808.02. Accordingly Applicants request withdrawal of the restriction of claims 1-30.

Election of Invention

In the event the above discussion does not convince the Examiner to withdraw the restriction requirement, Applicants hereby elect Group II, drawn to compounds of the formula I, pharmaceutical compositions thereof and method of inhibiting replication of human

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 U.S. Serial No.: 10/706,027
 Filed : November 12, 2003
 Page : 5

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APR 26 2006

immunodeficiency virus in cells therewith, classified in classes 544, 546, 548 and 517, various subclasses.

If a telephone interview would be of assistance in advancing prosecution of the subject application, Applicants' undersigned attorney invites the Examiner to telephone him at the number provided below.

No fee is deemed necessary in connection with the filing of this Communication. However, if a fee is required, authorization is hereby given to charge the amount of any such fee to Deposit Account No. 50-1891.

I hereby certify that this paper is being facsimile transmitted to:

Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450
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on the date shown below.

Albert Wai-Kit Chan 4/26/06
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 Reg. No. 36,479

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